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5 UNITED STATES DISTRICT COURT  
6 DISTRICT OF NEVADA  
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8 ALICIA C. TURNER,

9 Plaintiff,

10 vs.

11 NANCY A. BERRYHILL, Acting  
12 Commissioner of Social Security,

13 Defendant.

Case No. 2:16-cv-02932-APG-GWF

**ORDER**

14 This case involves judicial review of administrative action by the Secretary of Health and  
15 Human Services, denying Plaintiff's claim for Social Security benefits. The Court recognizes that  
16 many of these cases have a number of factors in common:

17 1. Such cases rarely, if ever, require proceedings in the nature of a trial. Instead, these  
18 cases are usually resolved by cross-motions to reverse or remand and to affirm the Commissioner's  
19 decision.

20 2. The transcript of the evidence adduced at the administrative hearing frequently  
21 contains the words, "inaudible" or "illegible" in some places, and the administrative record  
22 sometimes contains documents which are illegible. These parts of the administrative record may or  
23 may not relate to the question of whether the Commissioner's decision is supported by substantial  
24 evidence.

25 3. These cases are automatically assigned to the United States Magistrate Judge for  
26 preparation of a Report and Recommendation to the United States District Judge.

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1 Plaintiff's claim of disability due to each condition or ailment specified in subparagraph 5(a) above,  
2 with precise references to the applicable portions of the record. This summary shall not include  
3 medical evidence unrelated to the conditions or ailments upon which Plaintiff's claim or claims of  
4 disability are based. It shall be sufficient compliance with this subparagraph if Plaintiff shall  
5 stipulate that the Administrative Law Judge fairly and accurately summarized the evidence contained  
6 in the record.

7 (c) A complete summary of all other evidence adduced at the administrative hearing  
8 that supports Plaintiff's claim with precise references to the applicable portions of the record. It  
9 shall be sufficient compliance with this subparagraph if Plaintiff shall stipulate that the  
10 Administrative Law Judge fairly and accurately summarized the evidence adduced at the  
11 administrative hearing.

12 (d) A complete but concise statement as to why the record does not contain  
13 substantial evidence to support Defendant's claim.

14 7. If Defendant has not filed a notice of voluntary remand and the issues in question  
15 relate to the administrative record, Defendant, within **thirty (30) days** after being served with  
16 Plaintiff's motion for reversal and/or remand, shall file a cross-motion to affirm which will be  
17 considered an opposition to Plaintiff's motion. This motion shall include:

18 (a) A complete summary of all evidence in the record that Defendant contends  
19 constitutes substantial evidence to support the administrative determination that Plaintiff is not  
20 entitled to the benefits in question. It shall be sufficient compliance with this subparagraph if  
21 Defendant stipulates that the Administrative Law Judge fairly and accurately summarized the  
22 evidence contained in the record.

23 (b) A complete summary of all testimony adduced at the administrative hearing,  
24 including the Administrative Law Judge's findings, if any, concerning the credibility of witnesses,  
25 which Defendant contends constitutes substantial evidence to support the administrative  
26 determination that Plaintiff is not entitled to the benefits in question. It shall be sufficient  
27 compliance with this subparagraph if Defendant stipulates that the Administrative Law Judge fairly  
28 and accurately summarized the testimony adduced at the administrative hearing.

1 (c) A statement as to whether there are any inaccuracies in the summaries filed by  
2 Plaintiff. If Defendant believes Plaintiff's summaries are inaccurate, Defendant shall set forth what  
3 additions or corrections are required (with appropriate references to the record) in order to make the  
4 summaries accurate.

5 8. The motions filed by Plaintiff and Defendant pursuant to paragraphs 6 and 7 of this  
6 Order, respectively, shall also contain appropriate points and authorities dealing with the specific  
7 legal issues involved in this case, rather than principles of law applicable to Social Security cases in  
8 general.

9 9. Plaintiff shall be deemed to have acceded to the accuracy of the summaries supplied  
10 by Defendant in response to subparagraphs 7(a) and 7(b) of this Order unless within **twenty (20)**  
11 **days** after being served with Defendant's motion to affirm Plaintiff shall file and serve a reply brief  
12 setting forth:

13 (a) In what manner the summaries are inaccurate;

14 (b) What additions or corrections are required (with appropriate references to the  
15 record) in order to make the summaries accurate.

16 10. The motions filed by both Plaintiff and Defendant shall also contain the following:

17 (a) A statement as to whether the transcript of the administrative hearing can be  
18 adequately comprehended in spite of the fact that such transcript may contain the words "inaudible"  
19 or "unintelligible" in one or more places, and specifying each page, if any, in which testimony  
20 relating to the particular issues of this case cannot be adequately comprehended.

21 (b) A specification of each page in the administrative record that is partially or  
22 totally illegible, and a statement whether each such illegible page contains information relevant to an  
23 understanding of any issue presented in this case.

24 11. Oral argument shall be deemed waived and the case shall stand submitted unless  
25 argument is ordered by the Court or requested pursuant to Local Rule 78-2, by one of the parties  
26 within **ten (10) days** following the filing of the last document required by this Court. It shall be at  
27 the Court's discretion whether oral argument is granted.

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12. Failure of a party to file a motion or points and authorities required by this Order may result in dismissal of the action or reversal of the decision of the Secretary of Health and Human Services.

DATED this 21st day of June, 2017.

  
GEORGE FOLEY, JR.  
United States Magistrate Judge